

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BASSAM AWAD
Plaintiff,

v.

CIVIL ACTION NO.
18-12022-MBB

JOHN CUTONE and
BUNKER HILL COMMUNITY COLLEGE,
Defendants.

**MEMORANDUM AND ORDER RE:
APPLICATION TO PROCEED IN FORMA PAUPERIS
(DOCKET ENTRY # 51)**

October 13, 2021

BOWLER, U.S.M.J.

On August 24, 2021, this court allowed a motion to dismiss (Docket Entry # 34) filed by defendants Bunker Hill Community College ("BHCC") and BHCC Professor John Cutone ("Professor Cutone"), in his official capacity. (Docket Entry # 48). In addition, after undertaking a further screening of an amended complaint, this court concluded it failed "to state a claim on which relief can be granted," 28 U.S.C. § 1915(e)(2)(B) ("section 1915(e)(2)(B)"), against Professor Cutone in his individual capacity and dismissed the individual capacity claim against Professor Cutone under section 1915(e)(2)(B). (Docket Entry # 48). This court also entered a final judgment. (Docket Entry # 49). Liberally construing a pro se application to proceed in the district court without prepayment of fees (Docket Entry # 51), which plaintiff Bassam Awad ("plaintiff") filed in conjunction with a notice of appeal (Docket Entry # 50),

plaintiff seeks leave to file an appeal in forma pauperis and submits an affidavit of indigency. (Docket Entry # 51).

Under 28 U.S.C. § 1915(a)(3) “[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3). Likewise, under Fed. R. App. P. 24(a)(3), “[a] party who was permitted to proceed in forma pauperis in the district-court action . . . may proceed on appeal in forma pauperis without further authorization, unless . . . the district court . . . certifies that the appeal is not taken in good faith.” Fed. R. App. P. 24(a)(3); see Kersey v. Herb Chambers 1186, Inc., Civil Action No. 18-11110-FDS, 2018 WL 11191311, at *2 (D. Mass. May 31, 2018). This court allowed plaintiff to proceed in forma pauperis, albeit subject to further screening of the amended complaint. (Docket Entry # 5).

CONCLUSION

Although the issue is close, this court declines to certify that the appeal is not taken in good faith. The motion for leave to file an appeal in forma pauperis (Docket Entry # 51) is **ALLOWED**.

/s/ Marianne B. Bowler
MARIANNE B. BOWLER
United States Magistrate Judge